

BB

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION,

FILED

United States of America ex rel.

JAN 28 2008 am

SAM COOK,

Petitioner,

07

No. 07-C 6851 MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

vs.

TERRY McCANN, WARDEN, Stateville

Honorable: MILTON SHADUR

Correctional Center,

Presiding Judge

Respondent.

MOTION TO VACATE ORDER OF JANUARY 04, 2008

Now comes the Petitioner, SAM COOK, and respectfully moves this Honorable Court to VACATE its ORDER of JANUARY 04, 2008, for the following reasons:

1. The hereto attached court docket sheet shows beyond doubt that there was not, nor has there ever been a 81/2 month delay in his filing;
2. Further, the docket sheets shows that all delays in regards to the times was by the circuit court in its failure to reply;
3. That the docket sheets show that each time there was a delay and that at no time was there a time gap of 81/2 months as this court has stated;
4. That petitioner submits the docket sheet as exhibit to the proof that the 81/2 month did not exist.

WHEREFORE, petitioner would respectfully pray that this Honorable Court VACATE its order of JANUARY 04, 2008 and REINSTATE PETITIONERS WRIT, or in the alternative, accept this as notice of appeal along with the attached papers.

DATED: 1-16-2008, 2008:

Respectfully Submitted,

Sam Cook

SAM COOK B-39441
200

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 PEOPLE OF THE STATE OF ILLINOIS

VS NUMBER 98CR3072101

SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

720-5/9-1(A) (1)	F	MURDER/INTENT TO KILL/INJ
720-5/9-1(A) (2)	F	MURDER/STRONG PROB KILL/INJURE

The following disposition(s) was/were rendered before the Honorable Judge(s):

12/01/98 IND/INFO-CLK OFFICE-PRES JUDGE 98CR3072101 ID# CR100820209	12/18/98 1701
12/18/98 CASE ASSIGNED FITZGERALD, THOMAS R.	12/18/98 1718
12/18/98 DEFENDANT IN CUSTODY SIMMONS, HENRY R. JR	
12/18/98 PRISONER DATA SHEET TO ISSUE SIMMONS, HENRY R. JR	
12/18/98 APPEARANCE FILED SIMMONS, HENRY R. JR	
12/18/98 DEFENDANT ARRAIGNED SIMMONS, HENRY R. JR	
12/18/98 PLEA OF NOT GUILTY SIMMONS, HENRY R. JR	
12/18/98 CONTINUANCE BY AGREEMENT SIMMONS, HENRY R. JR	01/14/99
01/14/99 DEFENDANT IN CUSTODY SIMMONS, HENRY R. JR	
01/14/99 PRISONER DATA SHEET TO ISSUE SIMMONS, HENRY R. JR	
01/14/99 CONTINUANCE BY AGREEMENT SIMMONS, HENRY R. JR	02/10/99
02/10/99 DEFENDANT IN CUSTODY SIMMONS, HENRY R. JR	
02/10/99 PRISONER DATA SHEET TO ISSUE SIMMONS, HENRY R. JR	
02/10/99 CONTINUANCE BY AGREEMENT SIMMONS, HENRY R. JR	03/12/99

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 PEOPLE OF THE STATE OF ILLINOIS

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VS NUMBER 98CR3072101
 SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION
 03/12/99 DEFENDANT IN CUSTODY

SIMMONS, HENRY R. JR
 03/12/99 PRISONER DATA SHEET TO ISSUE

SIMMONS, HENRY R. JR
 03/12/99 CONTINUANCE BY AGREEMENT 04/13/99

SIMMONS, HENRY R. JR
 04/13/99 DEFENDANT IN CUSTODY

SIMMONS, HENRY R. JR
 04/13/99 PRISONER DATA SHEET TO ISSUE

SIMMONS, HENRY R. JR
 04/13/99 CONTINUANCE BY AGREEMENT 05/25/99

SIMMONS, HENRY R. JR
 05/25/99 DEFENDANT IN CUSTODY

SIMMONS, HENRY R. JR
 05/25/99 PRISONER DATA SHEET TO ISSUE

SIMMONS, HENRY R. JR
 05/25/99 CONTINUANCE BY AGREEMENT 06/23/99

SIMMONS, HENRY R. JR
 06/23/99 DEFENDANT IN CUSTODY

SIMMONS, HENRY R. JR
 06/23/99 PRISONER DATA SHEET TO ISSUE

SIMMONS, HENRY R. JR
 06/23/99 CONTINUANCE BY AGREEMENT 06/24/99

SIMMONS, HENRY R. JR
 06/24/99 DEFENDANT IN CUSTODY

SIMMONS, HENRY R. JR
 06/24/99 PRISONER DATA SHEET TO ISSUE

SIMMONS, HENRY R. JR
 06/24/99 BEHAVIOR CLINIC EXAM ORDERED 06/24/99

SIMMONS, HENRY R. JR
 06/24/99 CONTINUANCE BY AGREEMENT 08/04/99

SIMMONS, HENRY R. JR
 08/04/99 DEFENDANT IN CUSTODY

SIMMONS, HENRY R. JR
 08/04/99 PRISONER DATA SHEET TO ISSUE

SIMMONS, HENRY R. JR
 08/04/99 CONTINUANCE BY AGREEMENT 09/02/99

SIMMONS, HENRY R. JR

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 PEOPLE OF THE STATE OF ILLINOIS

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VS NUMBER 98CR3072101
 SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
 09/02/99 DEFENDANT IN CUSTODY

SIMMONS, HENRY R. JR
 09/02/99 PRISONER DATA SHEET TO ISSUE

SIMMONS, HENRY R. JR
 09/02/99 CONTINUANCE BY AGREEMENT 09/28/99

SIMMONS, HENRY R. JR

09/28/99 DEFENDANT IN CUSTODY
 SIMMONS, HENRY R. JR

09/28/99 PRISONER DATA SHEET TO ISSUE
 SIMMONS, HENRY R. JR

09/28/99 DISCOVERY ANSWER FILED
 SIMMONS, HENRY R. JR

09/28/99 CHANGE PRIORITY STATUS R
 SIMMONS, HENRY R. JR

09/28/99 WITNESSES ORDERED TO APPEAR
 SIMMONS, HENRY R. JR

09/28/99 CONTINUANCE BY AGREEMENT 11/12/99
 SIMMONS, HENRY R. JR

11/12/99 DEFENDANT IN CUSTODY
 SIMMONS, HENRY R. JR

11/12/99 PRISONER DATA SHEET TO ISSUE
 SIMMONS, HENRY R. JR

11/12/99 WITNESSES ORDERED TO APPEAR
 SIMMONS, HENRY R. JR

11/12/99 CONTINUANCE BY AGREEMENT 01/13/00
 SIMMONS, HENRY R. JR

01/13/00 DEFENDANT IN CUSTODY 00/00/00
 LACY, WILLIAM G.

01/13/00 PRISONER DATA SHEET TO ISSUE 00/00/00
 LACY, WILLIAM G.

01/13/00 CONTINUANCE BY AGREEMENT 03/09/00
 LACY, WILLIAM G.

03/09/00 DEFENDANT IN CUSTODY 00/00/00
 SALONE MARCUS R.

03/09/00 PRISONER DATA SHEET TO ISSUE 00/00/00
 SALONE MARCUS R.

03/09/00 CONTINUANCE BY AGREEMENT 04/10/00
 SALONE MARCUS R.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
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VS NUMBER 98CR3072101
 SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
04/18/00 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
04/18/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
04/18/00 CONTINUANCE BY AGREEMENT	05/03/00
SIMMONS, HENRY R. JR	
05/03/00 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
05/03/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
05/03/00 CONTINUANCE BY AGREEMENT	06/12/00
SIMMONS, HENRY R. JR	
06/12/00 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
06/12/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
06/12/00 WITNESSES ORDERED TO APPEAR	00/00/00
SIMMONS, HENRY R. JR	
06/12/00 CONTINUANCE BY AGREEMENT	08/16/00
SIMMONS, HENRY R. JR	
08/16/00 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
08/16/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
08/16/00 WITNESSES ORDERED TO APPEAR	00/00/00
SIMMONS, HENRY R. JR	
08/16/00 CONTINUANCE BY AGREEMENT	09/20/00
SIMMONS, HENRY R. JR	
09/20/00 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
09/20/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
09/20/00 WITNESSES ORDERED TO APPEAR	00/00/00
SIMMONS, HENRY R. JR	
09/20/00 CONTINUANCE BY AGREEMENT	10/12/00
SIMMONS, HENRY R. JR	
10/12/00 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 98CR3072101

SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
10/12/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
10/12/00 WITNESSES ORDERED TO APPEAR	00/00/00
SIMMONS, HENRY R. JR	
10/12/00 CONTINUANCE BY AGREEMENT	11/15/00
SIMMONS, HENRY R. JR	
11/15/00 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
11/15/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
11/15/00 WITNESSES ORDERED TO APPEAR	00/00/00
SIMMONS, HENRY R. JR	
11/15/00 CONTINUANCE BY AGREEMENT	12/11/00
SIMMONS, HENRY R. JR	
12/11/00 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
12/11/00 MOTION TO WITHDRAW AS ATTORNEY	S 2
DICKINSON	
SIMMONS, HENRY R. JR	
12/11/00 PUBLIC DEFENDER APPOINTED	00/00/00
SIMMONS, HENRY R. JR	
12/11/00 MOTION DEFT - CONTINUANCE - MD	01/31/01
SIMMONS, HENRY R. JR	
01/31/01 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
01/31/01 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
01/31/01 CONTINUANCE BY AGREEMENT	03/09/01
SIMMONS, HENRY R. JR	
03/09/01 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
03/09/01 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
03/09/01 MOTION DEFT - CONTINUANCE - MD	04/19/01
SIMMONS, HENRY R. JR	
04/19/01 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 98CR3072101

SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
04/19/01 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
04/19/01 WITNESSES ORDERED TO APPEAR	00/00/00
WITH JURY	
SIMMONS, HENRY R. JR	
04/19/01 CONTINUANCE BY AGREEMENT	06/25/01
SIMMONS, HENRY R. JR	
06/25/01 DEFENDANT IN CUSTODY	00/00/00
LACY, WILLIAM G.	
06/25/01 PRISONER DATA SHEET TO ISSUE	00/00/00
LACY, WILLIAM G.	
06/25/01 CONTINUANCE BY AGREEMENT	07/06/01
LACY, WILLIAM G.	
07/06/01 DEFENDANT IN CUSTODY	00/00/00
LACY, WILLIAM G.	
07/06/01 PRISONER DATA SHEET TO ISSUE	00/00/00
LACY, WILLIAM G.	
07/06/01 CONTINUANCE BY AGREEMENT	07/09/01
LACY, WILLIAM G.	
07/09/01 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
07/09/01 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
07/09/01 WITNESSES ORDERED TO APPEAR	00/00/00
SIMMONS, HENRY R. JR	
07/09/01 CONTINUANCE BY AGREEMENT	08/06/01
SIMMONS, HENRY R. JR	
08/06/01 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
08/06/01 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
08/06/01 BEHAVIOR CLINIC EXAM ORDERED	08/06/01
SIMMONS, HENRY R. JR	
08/06/01 ENTERED AND CONTINUED	00/00/00
SIMMONS, HENRY R. JR	
08/06/01 CONTINUANCE BY AGREEMENT	08/08/01
SIMMONS, HENRY R. JR	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
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VS NUMBER 98CR3072101
 SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION
 01/30/02 PRISONER DATA SHEET TO ISSUE 00/00/00
 SIMMONS, HENRY R. JR
 01/30/02 WITNESSES ORDERED TO APPEAR 00/00/00
 SIMMONS, HENRY R. JR
 01/30/02 TRIAL COMENCED AND CONTINUED 01/31/02
 SIMMONS, HENRY R. JR
 01/31/02 DEFENDANT IN CUSTODY 00/00/00
 SIMMONS, HENRY R. JR
 01/31/02 PRISONER DATA SHEET TO ISSUE 00/00/00
 SIMMONS, HENRY R. JR
 01/31/02 VERDICT OF GUILTY C001 00/00/00
 SIMMONS, HENRY R. JR
 01/31/02 BAIL REVOKED 00/00/00
 SIMMONS, HENRY R. JR
 01/31/02 PRE-SENT INVEST. ORD, CONTD TO 00/00/00
 SIMMONS, HENRY R. JR
 01/31/02 CONTINUANCE BY ORDER OF COURT 02/25/02
 SIMMONS, HENRY R. JR
 02/25/02 DEFENDANT IN CUSTODY 00/00/00
 SIMMONS, HENRY R. JR
 02/25/02 PRISONER DATA SHEET TO ISSUE 00/00/00
 SIMMONS, HENRY R. JR
 02/25/02 MOTION DEFT - CONTINUANCE - MD 03/20/02
 SIMMONS, HENRY R. JR
 03/20/02 DEFENDANT IN CUSTODY 00/00/00
 SIMMONS, HENRY R. JR
 03/20/02 PRISONER DATA SHEET TO ISSUE 00/00/00
 SIMMONS, HENRY R. JR
 03/20/02 CONTINUANCE BY AGREEMENT 03/28/02
 SIMMONS, HENRY R. JR
 03/28/02 DEFENDANT IN CUSTODY 00/00/00
 SIMMONS, HENRY R. JR
 03/28/02 MOTION DEFENDANT - NEW TRIAL 00/00/00 D 2
 SIMMONS, HENRY R. JR
 03/28/02 DEF SENTENCED ILLINOIS DOC C001
 42 YRS
 SIMMONS, HENRY R. JR

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 PEOPLE OF THE STATE OF ILLINOIS

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VS NUMBER 98CR3072101
 SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION
 03/28/02 LESSER INCLUDED OFFENSE MERGED C002

INTO CT. 1

SIMMONS, HENRY R. JR

03/28/02 CREDIT DEFENDANT FOR TIME SERV
 CREDIT FROM 10/28/1198

SIMMONS, HENRY R. JR

03/28/02 SPECIAL ORDER

ORAL MTN. TO RECONSIDER DENIED

SIMMONS, HENRY R. JR

03/28/02 PUBLIC DEF APPTD FOR APPEAL
 SIMMONS, HENRY R. JR

03/28/02 CHANGE PRIORITY STATUS
 SIMMONS, HENRY R. JR

M 00/00/00

03/28/02 LET MITTIMUS ISSUE/MITT TO ISS
 SIMMONS, HENRY R. JR

00/00/00

04/23/02 NOTICE OF APPEAL FILED, TRNSFR

00/00/00

04/30/02 NOTICE OF NOTICE OF APP MAILED

00/00/00

04/30/02 HEARING DATE ASSIGNED

05/03/02 1713

05/03/02 PUBLIC DEF APPTD FOR APPEAL
 BIEBEL, PAUL JR.

00/00/00

05/03/02 O/C FREE REPT OF PROCD ORD N/C
 BIEBEL, PAUL JR.

00/00/00

05/03/02 MEMO OF ORDS & NOA PICKED-UP
 BIEBEL, PAUL JR.

00/00/00

05/15/02 APPELLATE COURT NUMBER ASGND
 05/16/02 REPT OF PRCDS ORD FR CRT RPT

00/00/00 02-1313

05/28/02 COMMON LAW RECORD PREPARED

00/00/00

06/05/02 CLR RECD BY APP COUNSEL

00/00/00

PUBLIC DEFENDER

10/01/02 TRANS PROC REC/FILED CLKS OFF

00/00/00

10/04/02 REPORT OF PROCEEDINGS PREPARED

00/00/00

10/09/02 REPRT/PROCD RECD BY APP ATTRY
 PUBLIC DEFENDER

00/00/00

01/08/03 SUPPL REPORT OF PROCD PREPARED

00/00/00

01/09/03 SUPPL REC RECD BY APPL COUNSEL

00/00/00

PUBLIC DEFENDER

03/04/04 MANDATE FILED

03/17/04 1701

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
PEOPLE OF THE STATE OF ILLINOIS

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VS NUMBER 98CR3072101
SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
03/17/04 REVIEW COURT AFFIRMANCE	00/00/00
BIEBEL, PAUL JR.	
04/28/04 SPECIAL ORDER	00/00/00 F 2
GRAND JURY REPORTS & POLICE REPORTS (ETC).	
04/28/04 HEARING DATE ASSIGNED	05/03/04 1718
05/03/04 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
05/03/04 SPECIAL ORDER	00/00/00
PROSE REQUEST DENIED	
SIMMONS, HENRY R. JR	
08/11/04 POST-CONVICTION FILED	00/00/00
08/11/04 HEARING DATE ASSIGNED	08/20/04 1701
08/20/04 CASE ASSIGNED	08/20/04 1718
BIEBEL, PAUL JR.	
08/20/04 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
08/20/04 SPECIAL ORDER	00/00/00
PETITION PATENTLY WITHOUT MERIT AND PRIVOLOUS THEREFORE DISMISSED	
SIMMONS, HENRY R. JR	
08/20/04 POST-CONV PETITION DENIED	00/00/00
SIMMONS, HENRY R. JR	
08/20/04 SPECIAL ORDER	00/00/00
CLERK WILL NOTIFY DEFENDANT IN WRITING OF THE COURT'S RULING.	
SIMMONS, HENRY R. JR	
08/25/04 NOTIFICATION SENT TO DEFENDANT	00/00/00
09/29/04 SPECIAL ORDER	00/00/00 F 2
RECONSIDERATION FOR CAUSE & LEAVE TO FILE AMENDED P.C. PETITION.	
09/29/04 HEARING DATE ASSIGNED	10/04/04 1718
10/04/04 DEFENDANT IN CUSTODY	00/00/00
GAUGHAN, VINCENT	
10/04/04 CONTINUANCE BY ORDER OF COURT	10/05/04
GAUGHAN, VINCENT	
10/05/04 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
10/05/04 CONTINUANCE BY ORDER OF COURT	10/29/04
SIMMONS, HENRY R. JR	
10/29/04 CONTINUANCE BY AGREEMENT	11/04/04
GAUGHAN, VINCENT	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

VS

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SAM

COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
11/04/04 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
11/04/04 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
11/04/04 CONTINUANCE BY AGREEMENT	11/12/04
SIMMONS, HENRY R. JR.	
11/12/04 DEFENDANT NOT IN COURT	00/00/00
SIMMONS, HENRY R. JR	
11/12/04 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
11/12/04 CONTINUANCE BY AGREEMENT	11/15/04
SIMMONS, HENRY R. JR	
11/15/04 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
11/15/04 PRISONER DATA SHEET TO ISSUE	00/00/00
SIMMONS, HENRY R. JR	
11/15/04 SPECIAL ORDER	00/00/00
PETITION DISMISSED	
SIMMONS, HENRY R. JR	
02/02/05 SPECIAL ORDER	00/00/00 F
STATUS HEARING, SUPPLEMENTAL BRIEF.	2
02/02/05 HEARING DATE ASSIGNED	02/07/05 1718
02/07/05 CONTINUANCE BY ORDER OF COURT	02/10/05
SIMMONS, HENRY R. JR	
02/10/05 DEFENDANT IN CUSTODY	00/00/00
SIMMONS, HENRY R. JR	
02/10/05 PREVIOUS ORDER TO STAND	00/00/00
ORDER OF 11/15/2004 TO STAND	
SIMMONS, HENRY R. JR	
02/10/05 SPECIAL ORDER	00/00/00
OFF CALL	
SIMMONS, HENRY R. JR	
09/10/04 NOTICE OF APPEAL FILED, TRNSFR	00/00/00
06/17/05 NOTICE OF NOTICE OF APP MAILED	00/00/00
06/17/05 HEARING DATE ASSIGNED	06/24/05 1713
06/24/05 ILL STATE APPELLATE DEF APPTD	00/00/00
BIEBEL, PAUL JR.	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
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VS NUMBER 98CR3072101
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I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
06/24/05 O/C FREE REPT OF PROCD ORD N/C	00/00/00
BIEBEL, PAUL JR.	
06/24/05 MEMO OF ORDS & NOA PICKED-UP	00/00/00
BIEBEL, PAUL JR.	
07/15/05 APPELLATE COURT NUMBER ASGND	00/00/00 05-2085
08/03/05 SPECIAL ORDER	00/00/00 F 2
MOTION FOR DISCOVERY.	
08/03/05 HEARING DATE ASSIGNED	08/09/05 1718
07/20/05 REPT OF PRCDS ORD FR CRT RPT	00/00/00
08/09/05 SPECIAL ORDER	00/00/00
PRO SE MOTION DENIED-OFF CALL	
SIMMONS, HENRY R. JR	
08/16/05 COMMON LAW RECORD PREPARED	00/00/00
08/18/05 CLR RECD BY APP COUNSEL	00/00/00
STATE APPELLATE DEFENDER	
10/12/05 TRANS PROC REC/FILED CLKS OFF	00/00/00
10/20/05 REPT/PROCD'S RECD BY APP ATTRY	00/00/00
STATE APPELLATE DEFENDER - ONE VOLUME	
10/20/05 REPORT OF PROCEEDINGS PREPARED	00/00/00
(1) VOL	
12/05/05 SUPPLEMENTAL CLR PREPARED	00/00/00
CERTAIN DOCUMENTS (1) VOL	
12/08/05 SUPPL REC RECD BY APPL COUNSEL	00/00/00
STATE APPELLATE DEFENDER - ONE VOLUME	
10/03/06 SPECIAL ORDER	00/00/00 F 2
MOTION DISCOVERT, POLICE REPORTS (ETC).	
10/03/06 HEARING DATE ASSIGNED	10/10/06 1718
10/10/06 SPECIAL ORDER	00/00/00
PRO SE REQUEST DENIED OFF CALL	
SIMMONS, HENRY R. JR	
03/12/07 MANDATE FILED	03/21/07 1701
03/21/07 SPECIAL ORDER	00/00/00
AFFIRMED	
PORTER DENNIS J	
11/13/07 SPECIAL ORDER	00/00/00 F 2
DISMISS INDICTMENT.	
11/13/07 HEARING DATE ASSIGNED	11/16/07 1718

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
PEOPLE OF THE STATE OF ILLINOIS

Page 014

VS NUMBER 98CR3072101
SAM COOK

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION	
11/16/07 DEFENDANT IN CUSTODY	00/00/00
OBBISH JAMES M.	
11/16/07 PRISONER DATA SHEET TO ISSUE	00/00/00
OBBISH JAMES M.	
11/16/07 SPECIAL ORDER	00/00/00
PRO SE MOT TO DISMISS IND	
OBBISH JAMES M.	
11/16/07 CONTINUANCE BY ORDER OF COURT	12/14/07
OBBISH JAMES M.	
11/26/07 SPECIAL ORDER	00/00/00 F 2
GRAND JURY TRANSCRIPTS.	
11/26/07 HEARING DATE ASSIGNED	12/14/07 1718
12/14/07 DEFENDANT IN CUSTODY	00/00/00
OBBISH JAMES M.	
12/14/07 DEFENDANT NOT IN COURT	00/00/00
OBBISH JAMES M.	
12/14/07 MOTION TO DISMISS INDICTMENT	00/00/00 D 2
OBBISH JAMES M.	
12/14/07 SPECIAL ORDER	00/00/00
WRITTEN ORDER ENTERED. OFF CALL. CLERK TO NOTIFY.	
OBBISH JAMES M.	

I hereby certify that the foregoing has been entered of record on the above captioned case.
Date 12/18/07

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT OF COOK COUNTY

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 07 cv 6851

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

Cook/appellant	McCainn/appellee
----------------	------------------

(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	Sam Cook	Name	Sheri L. Wong
Firm	pro-se #B39841	Firm	Office of the Atty General
Address	Stateville - STV P.O. Box 112 Joliet, IL. 60434	Address	100 W. Randolph St. Chgo.II. 60603
Phone		Phone	312) 814-3692

Other Information			
District Judge	Shadur	Date Filed in District Court	12/10/07
Court Reporter	J. Andrews X-6899	Date of Judgment	1/4/08
Nature of Suit Code	530	Date of Notice of Appeal	1/28/08

COUNSEL: Appointed Retained Pro Se

FEE STATUS: Paid Due IFP
 IFP Pending U.S. Waived

Has Docketing Statement been filed with the District Court Clerk's Office? Yes No

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted Denied Pending

If Certificate of Appealability was granted or denied, date of order: 2/1/08

If defendant is in federal custody, please provide U.S. Marshall number (USM#):

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

BB

FOR THE SEVENTH CIRCUIT

219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604-184

FILED

JAN 28 2008 *asw*

DOCKETING STATEMENT

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

07C6851

Type of Action

XXXXXX Civil

X Criminal/Prisoner

Cross Appeal

District N.D. Judge MILTON SHADUR

District Court Docket Number 07 C 6851

Statute or Other authority establishing jurisdiction in the:

District Court Northern District of Illinois, eastern Division

Court of Appeals 7th Circuit

A. Timeless of Appeal

1. Date of entry of judgment or order appealed from 01-04-08
2. Date this notice of appeal filed 01-14-08
3. Filing date of any post-judgment motion filed by any party which tolls time under FRAP 4(a) (4) or 4(b) N/A
4. Date of entry of order deciding above post-judgment motion

5. Filing date of any motion to extend time under FRAP 4(a) (5) or 4(b)

N/A

B. Finality of Order or Judgment

1. Is the order of judgment appealed from a final decision on the merits?

Yes X No _____

2. If no, a). Did the district court order entry of judgment as to less than all claims or all parties pursuant to FRCP 54(b)?

Yes _____ No _____

- b). Is the order appealed from a collateral or interlocutory order reviewable under any exception to the finality rule?

Yes Q No S

If yes, explain _____
(Criminal only)

3. Has the defendant been convicted? Yes X No _____

4. Has a sentence been imposed? Yes No .

5. Is the defendant incarcerated? Yes No .

C. Has this case previously been appealed? Yes No .

If yes, give the case name, docket number and disposition of each prior appeal on a separate sheet.

D. Are any related cases or cases raising related issues pending in this court, any district court of this circuit, or the Supreme Court? Yes No .

If yes, cite the case and the manner in which it is related on a separate sheet.

E. State the nature of the suit, the relief sought, and the outcome below.

F. Issues to be raised on appeal. Attach one additional page if necessary.

G. Is settlement being discussed? Yes No .

H. Is disposition on motions, memoranda, or an abbreviated briefing schedule appropriate? Yes No . If yes, explain on a separate sheet.

Is oral argument necessary? Yes No .

I. Were there any in-court proceedings below? Yes No .

Is a transcript necessary for this appeal? Yes No . If yes, is transcripts already on file with district court? Yes No .

If transcript is not already on file, attach copy 1 of transcripts order.

J. List each adverse party to the appeal. Attach additional sheets if necessary.

If no attorney, give address and telephone number of the adverse party.

1. Adverse party TERRY McCANN

Attorney 11th ATT, GENERAL

Address _____

Telephone _____

2. Adverse party _____

Attorney _____

Address _____

Telephone _____

K. Appellant(s) Name SAM COOK
If incarcerated, give identification number B-39441

Telephone _____

L. Attorney or pro se litigant filing Docket Statement. Will you be handling the appeal? Yes Yes No No.

Name _____

Attorney () Pro Se (X)

Firm _____

Address _____

Telephone _____

If this is a joint statement by multiple appellants, add the names and address of other appellants and counsel joining in this Docketing Statement on an additional sheet, accompanied by a certification that all appellants concur in this filing.

Signature Sam Cook
Date 1-16-2008

1. Additional pages, if any, containing extended answers to questions on this form.
2. A copy of the order or judgment from which the appeal is taken.
3. Copy 1 of the transcript order, if any.
4. A certificate of service.

Sam Cook

Clerk

United states District Court

B-39841

United States Courthouse

Box 112

Chicago, Il. 60604

Joliet, IL.-60434

January 22, 2008

RE:DOCKETING STATEMENTR

Dear Clerk:

Please find attached a copy of the DOCKETING STATEMENT that I forgot to place with the NOTICE OF APPEAL i sent to your Office on January 178, 2008.

Please file it with those papers.

Thank you very much for your time and consideration in this matter.

Respectfully,



SAM COOK,Petitioner, Pro Se

B- 30841

BOX 112

JOLIET, IL. - 60434

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 3.0
Eastern Division**

Sam Cook

Plaintiff,

v.

Case No.: 1:07-cv-06851

Honorable Milton I. Shadur

Terry McCainn

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, January 4, 2008:

MINUTE entry before Judge Milton I. Shadur :Civil case terminated. Enter Memorandum Order. Accordingly "it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court" (Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts), and this Court therefore dismisses the Petition. That calls for the denial on mootness grounds of Cook's earlier-filed motion seeking the appointment of counsel, and this Court so orders.Mailed notice(srn,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA ex rel.)
SAM COOK #B-39841,)
Petitioner,)
v.) No. 07 C 6851
TERRY McCANN,)
Respondent.)

MEMORANDUM ORDER

As soon as this Court received its chambers copy of the 28 U.S.C. §2254¹ Petition for Writ of Habeas Corpus - Person in State Custody ("Petition") that has been submitted by pro se petitioner Sam Cook ("Cook"), it recognized the lurking potential for the fatal untimeliness of the Petition under Section 2244(d). It therefore parsed the required calculations under that section carefully in a December 11, 2007 memorandum order ("Order"), resulting in the conclusion that the Petition was indeed out of time even under the most favorable pro-Cook assumptions. But pursuant to last year's opinion of the United States Supreme Court in Day v. McDonough, 547 U.S. 198, 209-10 (2006), the Order accorded Cook (and the respondent Warden as well) the opportunity to provide input on the subject before this Court dealt with the timeliness issue in ultimate terms.

Cook has now responded with a filing that he captions

¹ All further references to Title 28's provisions will simply take the form "Section--."

"Petitioner Reply to Memorandum Order of December 11, 2007," in which he candidly acknowledges the untimeliness of his filing and the fairness of this Court's adherence to the teaching in Day. But all that Cook advances in substantive terms are (1) the claimed existence of issues of constitutional merit and (2) an asserted absence of fault on his part because he "cannot, in all fairness be held at fault for delays by state courts or prisoner lock-downs." Because the first of those assertions is reachable only if the Petition survives in timeliness terms, this follow-up memorandum order focuses on Cook's second contention.

In that respect, nothing in the way that Section 2244(d) is structured creates problems for Cook because of any asserted state court delays. To the contrary, the calculation of the one-year limitation period under that statute is predicated solely on the petitioner's delays, for the limitations clock does not begin to tick until the state courts have completed their consideration and the time for seeking certiorari has run (see Section 2244(d)(1)(A)) and because tolling applies throughout any period during which the petitioner has a state post-conviction proceeding that is still pending (see Section 2244(d)(2)).

That leaves only Cook's assertion in Reply ¶1 that "there was numerous lock-downs at the prison and other issues that made it hard to file some papers, but, all were filed timely." That acknowledgment really torpedoes Cook's contention that he cannot

be faulted for delays ascribable to such lockdowns--as Order at 3 pointed out, Cook had fully 8-1/2 months, once the Illinois Supreme Court had denied leave to appeal from the Illinois Appellate Court's adverse ruling as to state post-conviction relief, within which he could have filed his federal habeas Petition. Yet he let the matter go without a filing during that long period. No reference by Cook to sporadic lockdowns (rather than a continuous lockdown that would have precluded any filing) can save him from the operation of Section 2244(d)(1).

Accordingly "it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court" (Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts), and this Court therefore dismisses the Petition (id.). That calls for the denial on mootness grounds of Cook's earlier-filed motion seeking the appointment of counsel, and this Court so orders.



Milton I. Shadur
Senior United States District Judge

Date: January 4, 2008

APPEAL, HABEAS, TERMED, VALDEZ

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 3.0 (Chicago)
CIVIL DOCKET FOR CASE #: 1:07-cv-06851
Internal Use Only

Cook v. McCann et al
Assigned to: Honorable Milton I. Shadur
Cause: 28:2254 Petition for Writ of Habeas Corpus
(State)

Date Filed: 12/10/2007
Date Terminated: 01/04/2008
Jury Demand: None
Nature of Suit: 530 Prisoner: Habeas Corpus
Jurisdiction: Federal Question

Petitioner

Sam Cook
United States of America ex rel.

represented by **Sam Cook**
B-39841
Stateville - STV
P.O. Box 112
Joliet, IL 60434
PRO SE

V.

Respondent

Terry McCann

represented by **Sheri L. Wong**
Office of the Attorney General
100 West Randolph Street
Chicago, IL 60601
(312) 814-3692
Fax: (312) 814-2253
Email: swong@atg.state.il.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Lisa Madigan

Service List

represented by **Chief of Criminal Appeals**
Attorney General's Office

100 West Randolph - 12 Floor
 Chicago, IL 60601
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/04/2007	1	RECEIVED Petition and one copy by Sam Cook; Notice.(Exhibits) (kjc,) (Entered: 12/06/2007)
12/04/2007	3	APPLICATION by Petitioner Sam Cook for leave to proceed in forma pauperis.(Exhibits) (kjc,) (Entered: 12/06/2007)
12/04/2007	4	MOTION by Petitioner Sam Cook for appointment of counsel. (kjc,) (Entered: 12/06/2007)
12/04/2007	5	LETTER from Sam Cook dated 11/28/07. (kjc,) (Entered: 12/06/2007)
12/04/2007	8	POST MARKED envelope for initiating document by Sam Cook (Document not scanned) (aew,) (Entered: 12/12/2007)
12/05/2007	2	CIVIL Cover Sheet. (kjc,) (Entered: 12/06/2007)
12/06/2007		MAILED Copy of Petition to Chief of Criminal Appeals via certified mail, article number 7006 0100 0001 7313 6669. (kjc,) (Entered: 12/06/2007)
12/10/2007	9	(Court only) RECEIPT regarding payment of filing fee paid; on 12/10/2007 in the amount of \$5.00, receipt number 10342531 (mb,) (Entered: 12/13/2007)
12/11/2007	7	MEMORANDUM Order Signed by Judge Milton I. Shadur on 12/11/2007:Mailed notice(srn,) (Entered: 12/12/2007)
12/12/2007	6	MINUTE entry before Judge Milton I. Shadur :Enter Memorandum Order. Both Cook and the Attorney General's office are ordered to respond solely on the statute of limitations issue -- not on the merits of Cook's contentions by a filing to be received in this District Court on or before January 11, 2008. Motion for leave to proceed in forma pauperis 3 denied. Cook should promptly remit a check or money order for \$5 payable to the Clerk of Court, United States District Court. Motion to appoint counsel 4 is denied, subject to possible further review based either (1) on the basis for Cook's response of (2) for purposes of addressing the merits if the Petition survives as timely brought.Mailed notice (srn,) (Entered: 12/12/2007)
12/12/2007	10	PETITION for writ of habeas corpus filed by Sam Cook against Terry McCann, Lisa Madigan Filing fee \$ 5.(mb,) (Entered: 12/13/2007)
12/14/2007	11	RETURN of U.S. Post Office receipt, Article number 7006 0100 0001 7313 6669. (gmr,) (Entered: 12/18/2007)
12/21/2007	12	ATTORNEY Appearance for Respondent Terry McCann by Sheri L.

		Wong (Wong, Sheri) (Entered: 12/21/2007)
01/02/2008	<u>15</u>	REPLY to Memorandum Order of December 11, 2007 by Petitioner Sam Cook; Notice (mb,) (Entered: 01/07/2008)
01/04/2008	<u>13</u>	MINUTE entry before Judge Milton I. Shadur :Civil case terminated. Enter Memorandum Order. Accordingly "it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court" (Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts), and this Court therefore dismisses the Petition. That calls for the denial on mootness grounds of Cook's earlier-filed motion seeking the appointment of counsel, and this Court so orders.Mailed notice (srn,) (Entered: 01/04/2008)
01/04/2008	<u>14</u>	MEMORANDUM Order Signed by Judge Milton I. Shadur on 1/4/2008:Mailed notice(srn,) (Entered: 01/04/2008)
01/28/2008	<u>16</u>	MOTION by Petitioner Sam Cook to vacate order of 01/04/08 (Exhibits). (ar,) (Entered: 02/01/2008)
01/28/2008	<u>17</u>	REQUEST by Petitioner Sam Cook for certificate of appealability. (ar,) (Entered: 02/01/2008)
01/28/2008	<u>18</u>	AFFIDAVIT of Plaintiff, Sam Cook, accompanying motion for permission to appeal in forma pauperis on USCA 7th Circuit form (Exhibit). (ar,) (Entered: 02/01/2008)
01/28/2008	<u>19</u>	DOCKETING Statement by Plaintiff Sam Cook. (ar,) (Entered: 02/01/2008)
01/28/2008	<u>20</u>	NOTICE by Plaintiff Sam Cook as to his motion to vacate order of 01/04/08 <u>16</u> , motion for permission to appeal in forma pauperis <u>18</u> , docketing statement <u>19</u> , and motion for certificate of appealability <u>17</u> . (ar,) (Entered: 02/01/2008)
01/28/2008	<u>23</u>	NOTICE of appeal by Sam Cook regarding orders <u>13</u> , <u>14</u> (Fee Due) (dj,) (Entered: 02/01/2008)
02/01/2008	<u>21</u>	MINUTE entry before Judge Milton I. Shadur : Enter Memorandum Order, this Court denies both Cook's motion to vacate its 01/04/08 memorandum order <u>16</u> and his request for a certificate of appealability <u>17</u> , but, as required by Section 1915, it orders Cook to pay the full \$455.00 in appellate filing fees in future installments. Cook is advised that he may present his request for a certificate of appealability to the Court of Appeals. (For further detail see separate order). Mailed notice (ar,) (Entered: 02/01/2008)
02/01/2008	<u>22</u>	MEMORANDUM Order, signed by Judge Milton I. Shadur on 2/1/2008 <u>21</u> . Mailed notice (ar,) (Entered: 02/01/2008)